

Message Text

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PAGE 01 STATE 239283

61

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TO ALL AFRICAN DIPLOMATIC POSTS

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E.O. 11652: N.A.

TAGS: PLOS

SUBJECT: LOS - OAU RESOLUTION

1. THE FOLLOWING IS THE TEXT OF THE OAU COUNCIL OF
MINISTERS RESOLUTION CIRCULATED ON 14 SEPTEMBER AT THE
LOS CONFERENCE:

BEGIN TEXT: THE COUNCIL OF MINISTERS OF THE ORGANIZATION
OF AFRICAN UNITY MEETING IN ITS TWENTY-SEVENTH ORDINA-
RY SESSION AT PORT LOUIS, MAURITIUS, FROM 24 JUNE TO
3 JULY 1976,

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PAGE 02 STATE 239283

HAVING CONSIDERED THE INTERIM REPORT OF THE ADMINISTRATIVE SECRETARY-GENERAL ON THE DELIBERATIONS OF THE THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA, CM/762 (XXVII),

REAFFIRMS THAT:

1. THE INTERNATIONAL ZONE, EXTENDING BEYOND NATIONAL JURISDICTION AND ITS RESOURCES, IS THE COMMON HERITAGE OF MANKIND AND THAT ITS RESOURCES MUST BE UTILIZED IN THE INTEREST OF MANKIND AS A WHOLE WITH SPECIAL REGARD TO THE INTERESTS AND NEEDS OF DEVELOPING COUNTRIES;

2. THE INTERNATIONAL ZONE, EXTENDING BEYOND NATIONAL JURISDICTION, IS ONE AND INDIVISIBLE AND SHALL NEITHER BE DIVIDED INTO SECTORS NOR RESERVED FOR A COUNTRY OR A GROUP OF COUNTRIES, LET ALONE PRIVATE OR PUBLIC ENTERPRISES BELONGING TO ONE OR SEVERAL STATES;

3. THE INTERNATIONAL AUTHORITY TO BE SET UP SHALL HAVE THE POWER TO MANAGE OR ADMINISTER DIRECTLY THE INTERNATIONAL ZONE AND ITS RESOURCES AND MAY WHENEVER THE NEED ARISES SIGN CONTRACTS OR SET UP MIXED VENTURES WITH ANY NATURAL OR JURIDICAL PERSONS;

4. WHATEVER THE NATURE OF THE CONTRACT, THE AUTHORITY MUST GIVE SPECIAL ATTENTION TO STRICT PLANNING SO THAT THE PRODUCTS OF THE SEA-BED MAY BE COMPLEMENTARY IN ORDER TO AVOID AT ALL COSTS COMPETITION AGAINST DEVELOPING COUNTRIES IN GENERAL, AND AFRICAN COUNTRIES PRODUCERS OF MINERALS IN PARTICULAR, TO THE DETRIMENT OF THEIR EXPORT EARNINGS;

5. IN SHARING THE BENEFITS RESULTING FROM THE EXPLOITATION OF THE RESOURCES OF THE INTERNATIONAL ZONE CONSIDERATION SHOULD BE GIVEN TO THE NEEDS OF DEVELOPING COUNTRIES, IN PARTICULAR LAND-LOCKED COUNTRIES AND THE LEAST DEVELOPED AMONG THE DEVELOPING COUNTRIES;

6. THE INTERNATIONAL ZONE, A COMMON HERITAGE OF MANKIND, SHOULD BE USED EXCLUSIVELY FOR PEACEFUL LIMITED OFFICIAL USE

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PAGE 03 STATE 239283

PURPOSES. ANY UTILIZATION OF THIS ZONE FOR MILITARY PURPOSES IS STRICTLY PROHIBITED. END TEXT.

2. COMMENT: THE RESOLUTION DEALS ONLY WITH THE DEEP SEABED REGIME, AS THE MEETING APPARENTLY WAS UNABLE TO RESOLVE OTHER ISSUES, SUCH AS LANDLOCKED ACCESS TO THE SEA AND PARTICIPATION OF LANDLOCKED AND QTE GEOGRAPHICALLY DISADVANTAGED END QTE STATES IN RESOURCES

OF THEIR NEIGHBORS' ECONOMIC ZONES.

A) IT IS NOTABLE THAT PARAS 2 AND 3 DO NOT REPEAT NOT INSIST ON EXCLUSIVE EXPLOITATION BY THE ENTERPRISE AS SUCH, ALTHOUGH THIS POSSIBILITY IS NOT PRECLUDED. WHILE; PARA 2 SHOULD PROBABLY BE READ AS AN ATTACK ON THE PARALLEL ACCESS SYSTEM, SINCE THE REASONING IS FAMILIAR FROM ALGERIAN STATEMENTS, IT MISCONSTRUES THAT SYSTEM SINCE IT DOES NOT IN FACT DIVIDE THE AREA INTO SECTORS OR RESERVE IT FOR A DEVELOPED COUNTRY OR GROUP OF DEVELOPED COUNTRIES. RATHER UNDER THE

PARALLEL SYSTEM IN THE REVISED SINGLE NEGOTIATING TEXT, THE ENTERPRISE MAY FUNCTION THROUGHOUT THE AREA; IN ADDITION, HALF OF THE MINE SITES WOULD BE RESERVED FOR EXPLOITATION ONLY BY THE ENTERPRISE OR, WHERE THE ENTERPRISE DOES NOT WISH THE AREA, BY LDC'S. (ON THE OTHER HAND, THE QUOTA OR ANTI-MONOPOLY CLAUSES BEING DEMANDED BY THE USSR AND FRANCE, WHICH WE STRONGLY OPPOSE, WOULD IN EFFECT RESERVE AREAS FOR CERTAIN DEVELOPED STATES.)

B) THE KEY PROBLEM IN PARA 3 IS THAT THE AUTHORITY QTE MAY WHENEVER THE NEED ARISES END QTE SIGN CONTRACTS. U.S. VIEW IS THAT ACCESS TO STATES AND PRIVATE ENTITIES MUST BE GUARANTEED. ACCORDINGLY, IF OBJECTIVE CRITERIA ARE MET, CONTRACTS MUST BE ISSUED. THERE MAY BE SOME CONFUSION ON THIS ISSUE RELATED TO PRODUCTION LIMITATIONS. THE PRODUCTION LIMITATIONS DESIGNED TO ACCOMMODATE LDC LAND-BASED PRODUCER INTERESTS AND CONSUMER INTERESTS WOULD REPEAT WOULD BE A CRITERIA FACTORED INTO THE CONTRACT-ISSUING PROCESS (SEE PARA C BELOW). THUS, THERE IS NO NEED FOR BROAD DISCRETION LIMITED OFFICIAL USE

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PAGE 04 STATE 239283

IN THE CONTRACTING PROCESS TO MEET THIS POINT.

C) AS A CONSUMER AS WELL AS A POTENTIAL DEEP SEABED PRODUCER, WE HAVE GREAT DIFFICULTY WITH THE UNDERLYING APPROACH OF PARA 4, WHICH DISREGARDS CONSUMER INTERESTS AND IMPLIES RESTRICTIONS ON NEW SOURCES OF SUPPLY IN GENERAL. (IN THE LATTER REGARD, THE PRINCIPLE COULD ULTIMATELY BE STRETCHED TO HURT MANY AFRICAN STATES THAT ARE NOT YET SIGNIFICANT LAND-BASED PRODUCERS OF RAW MATERIALS BUT HOPE TO DEVELOP THEIR PRODUCTION. MOREOVER, MOST AFRICAN STATES ARE CONSUMERS OF THE METALS INVOLVED IN THIS CASE, ALBEIT INDIRECT CONSUMERS. AS WE HAVE SEEN IN OTHER CONTEXTS, WHILE VOLUME OF CONSUMPTION IN SOME LDC'S MAY BE SMALL, THE IMPACT OF INCREASED PRICES ON THEIR

FRAGILE ECONOMIES CAN BE VERY SEVERE. THE KEY METAL INVOLVED IN MANGANESE NODULE PRODUCTION IS NICKEL: CURRENT LAND-BASED PRODUCTION IS CONCENTRATED IN DEVELOPED, NOT DEVELOPING, COUNTRIES). HOWEVER, AS PART OF AN ACCEPTABLE PACKAGE, WE ARE PREPARED TO AGREE TO ARTICLE 9 OF THE REVISED SNT (PART I). IT SHOULD BE NOTED THAT THIS INCLUDES A 20 YEAR (PLUS POSSIBLE 5 YEAR EXTENSION) INTERIM PRODUCTION LIMITATION GEARED TO THE CUMULATIVE GROWTH SEGMENT OF THE NICKEL MARKET, IDENTIFIED IN THE ANNEX AS SIX PERCENT ANNUALLY: THE EFFECT (BECAUSE OF THE RATIO OF NICKEL TO COPPER IN MANGANESE NODULES) IS

TO ENSURE VIRTUALLY NO COMPETITION IN TERMS OF GLOBAL PRODUCTION ON COPPER (OUR ESTIMATES ARE 1 TO 2 PERCENT OF WORLD DEMAND). (IT SHOULD ALSO BE NOTED THAT SECRETARY KISSINGER HAS PROPOSED A REVIEW OF THE DEEP SEABED EXPLOITATION PROVISIONS OF THE TREATY AFTER ABOUT 25 YEARS). MOREOVER, THERE ARE PROVISIONS IN ARTICLE 9 FOR IMPLEMENTING COMMODITY ARRANGEMENTS ON THESE METALS SHOULD THESE BE AGREED BY THE EFFECTED CONSUMER AND PRODUCER STATES, AND PROVISIONS FOR ADJUSTMENT ASSISTANCE TO ADVERSELY AFFECTED LDC'S.

D) WE REJECT THE SECOND SENTENCE OF PARAGRAPH 6; THE ISSUE OF ACCESS CONTROL CANNOT BE DEALT WITH AT THE LIMITED OFFICIAL USE

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PAGE 05 STATE 239283

LOS CONFERENCE. ARMS CONTROL FORUMS ARE THE APPROPRIATE PLACE TO ADDRESS SUCH ISSUES. WE DO NOT BELIEVE THE PEACEFUL PURPOSES PRINCIPLE PRECLUDES MILITARY ACTIVITIES GENERALLY. WE ARE PARTIES TO THE NUCLEAR TEST BAN TREATY AND THE SEABEDS ARMS CONTROL TREATY. THE LATTER TREATY PROHIBITS THE EMPLACEMENT OF NUCLEAR AND OTHER WEAPONS OF MASS DESTRUCTION AND THUS AVOIDS A MAJOR ARMS RACE ON THE SEABEDS; THAT TREATY, BY ITS TERMS, COMES UP FOR REVIEW IN 1977.

E) THE REFERENCE TO MANKIND AS A WHOLE IN PARA 1 IS OF COURSE VERY MUCH THE POINT. THE OVERWHELMING MAJORITY IN ALL COUNTRIES ARE ULTIMATE CONSUMERS OF THE METALS INVOLVED; A VERY SMALL PERCENTAGE WOULD BENEFIT FROM RESTRICTIONS ON SUPPLY OR INCREASES IN PRICES. THE FACT THAT THE PRODUCER INTEREST IS CONCENTRATED WHILE THE CONSUMER INTEREST IS SPREAD OUT SHOULD NOT BE PERMITTED TO DISTORT THE BALANCE STRUCK IN THE TREATY. MOREOVER, NO MEANINGFUL CONCEPT OF THE INTERESTS OF MANKIND AS A WHOLE CAN EXCLUDE THE INTERESTS OF THE INHABITANTS OF INDUSTRIALIZED COUNTRIES. THERE IS A GREAT DIFFERENCE

BETWEEN SPECIAL REGARD TO THE INTERESTS AND NEEDS OF DEVELOPING COUNTRIES AND, IN EFFECT, CEDING THE DEEP SEABEDS TO A NEW PERMANENT SECRETARIAT OF THE GROUP OF 77 INEVITABLY CONTROLLED BY THE WEALTHIEST AND MOST AMBITIOUS OF THE GROUP. REPOSING THE POWER TO MAKE BINDING SUBSTANTIVE DECISIONS IN THE ASSEMBLY OF THE SEABED AUTHORITY (EACH PARTY HAS ONE VOTE), OR IN A COUNCIL THAT DOES NOT ADEQUATELY BALANCE THE INTERESTS INVOLVED, IS SIMPLY OUT OF THE QUESTION.

3. EMBASSIES MAY IN THEIR DESCRIPTION DRAW ON THE POINTS IN PARA 2 IN THE COURSE OF CONVERSATIONS THAT MAY ARISE ON THE MATTER, IN PARTICULAR WITH HIGHER LEVEL OFFICIALS WHO MAY NOT HAVE FOCUSSED ON THE PROBLEM. WE DO NOT HOWEVER WISH SPECIFIC APPOINTMENTS TO BE MADE OR OTHERWISE GIVE THE IMPRESSION THAT EMBASSIES HAVE BEEN INSTRUCTED TO COMMENT ON THE RESOLUTION. YOU MAY ALSO WISH TO SUGGEST THAT IF LIMITED OFFICIAL USE

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PAGE 06 STATE 239283

AFRICAN GOVERNMENTS WANT A TREATY, THEY WILL HAVE TO DO MORE THAN INSTRUCT THEIR DELEGATES TO SUPPORT THE AFRICAN GROUP OR THE GROUP OF 77. INSTEAD THEY SHOULD WORK TOWARD THE ADOPTION OF REASONABLE AND NEGOTIABLE POSITIONS BY SUCH GROUPS. OTHERWISE, THE VOCAL EXTREMISTS WILL CONTINUE TO HAVE A BLANK CHECK. KISSINGER

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